SOCIAL SECURITY COVERAGE OF AMISH WORKERS

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

H.R. 2259

TO AMEND THE INTERNAL REVENUE CODE OF 1986 AND TITLE II OF THE SOCIAL SECURITY ACT TO PROVIDE AN EXEMPTION FROM COVERAGE UNDER THE SOCIAL SECURITY PROGRAM ON A CURRENT BASIS (PURSUANT TO APPLICATIONS FILED IN ADVANCE) FOR EMPLOYERS AND THEIR EMPLOYEES IN CASES WHERE BOTH ARE MEMBERS OF FAITHS OPPOSED TO PARTICIPATION IN SUCH PROGRAM

OCTOBER 6, 1987

Serial 100–40

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SOCIAL SECURITY COVERAGE OF AMISH WORKERS

TUESDAY, OCTOBER 6, 1987

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SOCIAL SECURITY,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The subcommittee met, pursuant to notice, at 12:02 p.m., in room B-318, Rayburn House Office Building, Hon. Andy Jacobs, Jr. (chairman of the subcommittee) presiding.

[The press release announcing the hearing and a copy of the bill, H.R. 2259, follow:]

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 17, 1987

SUBCOMMITTEE ON SOCIAL SECURITY #7
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-3625

ANDY JACOBS, JR. (D., IND.),
CHAIRMAN, SUBCOMMITTEE ON SOCIAL SECURITY,
COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES,
ANNOUNCES HEARINGS ON THE CONDITION OF STATE AGENCIES THAT
DETERMINE DISABILITY UNDER SOCIAL SECURITY, AND
ON H.R. 2259, CONCERNING COVERAGE OF AMISH WORKERS,
ON TUESDAY, OCTOBER 6, 1987, AT 10:00 A.M.,
IN ROOM B-318 RAYBURN HOUSE OFFICE BUILDING

Andy Jacobs, Jr. (D., Ind.), Chairman of the Subcommittee on Social Security, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee has rescheduled a hearing on the condition of State agencies that determine disability under the Social Security Disability Insurance program (see press releases #5 and #6), and on the current status of new attorney fee regulations in light of Committee-approved legislation on the fee process. The hearing will be held on Tuesday, October 6, 1987, in room B-318 Rayburn House Office Building, beginning at 10:00 a.m.

Immediately following the conclusion of the disability hearing, the Subcommittee will hold a hearing on H.R. 2259 (cosponsored by Messrs. Schulze, Vander Jagt, Daub, et al) concerning social security coverage of Amish workers. Testimony will be received at the second hearing only from invited witnesses.

SOCIAL SECURITY DISABILITY ISSUES

The Subcommittee will receive testimony from the Social Security Administration (SSA), the General Accounting Office, and interested public witnesses. The hearing will focus on several issues:

1. Have the severe restrictions placed by SSA on State agency funding and staffing levels jeopardized the ability of the State agencies to properly implement the provisions of the Social Security Disability Benefits Reform Act of 1984 (P.L. 98-460)?

2. How have the State agencies responded to these budgetary constraints, and has this led to any deterioration in the quality and thoroughness of disability case development, documentation, and review?

3. Are SSA's productivity guidelines realistic, and is the method SSA utilizes to measure productivity accurate, consistent, or nationally uniform? If not, how could these productivity standards be improved?

4. Does a climate of crisis and disruption continue to plague the day-to-day administration of the disability program, and if so, how can order and stability -- the key objectives of the 1984 legislation -- be restored to the administrative process?

5. What is the condition of Federal-State relations in administering the disability program, and what steps can be taken to improve the development and implementation of budgetary and adjudicative policy?

6. Despite approval by the full Committee on Ways and Means, the Social Security Administration is pursuing new attorney fee regulations which appear to be contradictory to the goals of the legislation. What are the agency's intentions in pursuing these new regulations?

AMISH EMPLOYEE COVERAGE ISSUES

Under current law, self-employed Amish who have religious objections to participation in the social security system are exempt from coverage. The hearing will focus on whether that exemption should extend to Amish employees of Amish employers.

(OVER)

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Requests to be heard at the disability hearing must be made by telephone to Harriett Lawler [telephone (202) 225-3625] by the close of business Tuesday, September 29, 1987. In order to facilitate scheduling, requests should indicate the specific issues which the witness wishes to address and the relative priority of each issue if more than one issue is indicated. The request should be followed by a formal written request addressed to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, room 1102 Longworth House Office Building, Washington, D.C. 20515. The Subcommittee will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee staff [(202) 225-9263].

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to briefly summarize their written statements in no more than five minutes. THE FIVE-MINUTE RULE WILL BE STRICTLY APPLIED. The full statement will be included in the printed record.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 100 copies of their prepared statements to the Subcommittee on Social Security office, room B-316 Rayburn House Office Building, at least 24 hours in advance of their scheduled appearances. Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENT IN LIEU OF PERSONAL APPEARANCE:

Persons submitting written statements for the printed record of either hearing should submit six (6) copies of their statements by the close of business Tuesday, October 20, 1987, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing a written statement for the record of the printed hearing wish to have their statements distributed to the press and the interested public at either hearing, they may provide 75 additional copies for this purpose to the Subcommittee office, room B-316 Rayburn House Office Building, during the course of the public hearing.

SEE FORMATTING REQUIREMENTS BELOW:

COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

100TH CONGRESS
1ST SESSION

H. R. 2259

To amend the Internal Revenue Code of 1986 and title II of the Social Security Act to provide an exemption from coverage under the social security program on a current basis (pursuant to applications filed in advance) for employers and their employees in cases where both are members of faiths opposed to participation in such program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 1987

Mr. SCHULZE (for himself, Mr. WALKER, Mr. VANDER JAGT, Mr. STUMP, Mr. KOSTMAYER, Mr. HILER, Mr. SHUMWAY, and Mr. LAGOMARSINO) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1986 and title II of the Social Security Act to provide an exemption from coverage under the social security program on a current basis (pursuant to applications filed in advance) for employers and their employees in cases where both are members of faiths opposed to participation in such program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter C of chapter 21 of the Internal Revenue Code of 1986 (general provisions under Federal Insurance Contributions Act) is amended by redesignating section 3126

as section 3127, and by inserting after section 3125 the following new section:

"SEC. 3126. EXEMPTION FOR EMPLOYERS AND THEIR EMPLOYEES WHERE BOTH ARE MEMBERS OF RELIGIOUS FAITHS OPPOSED TO PARTICIPATION IN PROGRAM.

"(a) IN GENERAL.—Notwithstanding any other provision of this chapter (and under regulations prescribed to carry out this section), in any case where—

"(1) an employer is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section, and has filed and had approved under subsection (b) an application (in such form and manner, and with such official, as may be prescribed by such regulations) for an exemption from the taxes imposed by section 3111, and

"(2) an employee of such employer who is also a member of such a religious sect or division and an adherent of its established tenets or teachings has filed and had approved under subsection (b) an identical application for exemption from the taxes imposed by section 3101,

such employer shall be exempt from the taxes imposed by section 3111 with respect to wages paid to each of his employees who meets the requirements of paragraph (2) and each such employee shall be exempt from the taxes imposed by section 3101 with respect to such wages paid to him by such employer.

"(b) APPROVAL OF APPLICATION.—An application for exemption filed by an employer under subsection (a)(1) or by an employee under subsection (a)(2) shall be approved only if—

"(1) such application contains or is accompanied by the evidence described in section 1402(g)(1)(A) and a waiver described in section 1402(g)(1)(B),

"(2) the Secretary of Health and Human Services makes the findings (with respect to such sect or division) described in section 1402(g)(1) (C), (D), and (E), and

"(3) no benefit or other payment referred to in section 1402(g)(1)(B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) to the individual filing the application at or before the time of such filing.

"(c) EFFECTIVE PERIOD OF EXEMPTION.—An exemption granted under this section to any employer with respect to wages paid to any of his employees, or granted to any such

employee, shall apply with respect to wages paid by such employer during the period—

"(1) commencing with the first day of the first calendar quarter, after the quarter in which such application is filed, throughout which such employer or employee meets the applicable requirements specified in subsections (a) and (b), and

"(2) ending with the last day of the calendar quarter preceding the first calendar quarter thereafter in which (A) such employer or the employee involved ceases to meet the applicable requirements of subsection (a), or (B) the sect or division thereof of which such employer or employee is a member is found by the Secretary of Health and Human Services to have ceased to meet the requirements of subsection (b)(2).".

(b) The table of sections for such subchapter C of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Exemption for employers and their employees where both are members of religious faiths opposed to participation in program.
"Sec. 3127. Short title.".

SEC. 2. Section 202(v) of the Social Security Act is amended—

(1) by inserting "(1)" after "(v)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this title, in the case of any individual who files an application under section 3126(a)(2) of the Internal Revenue Code of 1986 and is granted an exemption from the tax on employees thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such application; except that if thereafter such individual's exemption under such section 3126(a)(2) ceases to be effective, such application shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on his wages beginning with the first day of the calendar year or calendar quarter for which such exemption ceases to apply and on his self-employment income for and after his taxable year which begins in or with the beginning of such calendar year or calendar quarter.".

SEC. 3. (a) Section 1402(g)(2) of the Internal Revenue Code of 1986 (relating to time for filing application) is amended to read as follows:

"(2) TIME FOR FILING APPLICATION.—For purposes of this subsection, an application must be filed—

"(A) on or before the time prescribed for filing the return (including any extension thereof)

for the first taxable year for which the applicant has self-employment income (determined without regard to this subsection and subsection (c)(6)), or

"(B) on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year ending after the date of the enactment of this subparagraph,

whichever is later; except that an application filed after the time specified in subparagraph (A) or (B) (whichever is applicable) but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified by the Secretary that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely.".

(b) Section 1402(g)(3) of such Code (relating to period for which exemption is effective) is amended—

(1) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof (after and below subparagraph (B)) the following:

"and except that no refund or credit of any amount of tax imposed by this chapter shall be due or payable by reason of any such exemption."

SEC. 4. The amendments made by the first section of this Act shall apply with respect to wages paid in taxable years beginning after December 31, 1987. The amendments made by section 2 of this Act shall apply with respect to benefits paid for (and items and services furnished in) months after December 1987. The amendments made by section 3 of this Act shall apply with respect to taxable years ending after the date of the enactment of this Act.

Chairman JACOBS. We have also scheduled a second hearing for the legislation introduced by our colleague Congressman Dick Schulze, H.R. 2259 concerning Social Security coverage of certain religious sects.

Mr. Schulze, it is hard to welcome you since you are already here. Proceed in your own fashion, please.

STATEMENT OF HON. DICK SCHULZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. SCHULZE. Thank you, Mr. Chairman. Mr. Chairman, I am here before you today to take up the cause of a special interest group. This group is without the services of any high powered Washington lobbyist. In fact, Mr. Chairman, most of the members of this special interest group do not even vote.

Their special interest is an admirable one of which we should be aware and for which we should have respect. Their interest is a wish to live and labor under God's law, to take care of their own without Government assistance. These fine and plain people are a symbol to our fast-paced society. They are a symbol of our heritage, of our work ethic, and of our benevolent nation's creation.

In 1965, Congress exempted from the Social Security self-employment tax, those individuals who belong to religious sects conscientiously opposed to public insurance, in particular Social Security, and who, in addition, make provision for the care of dependent members. In 1982, the Supreme Court in *United States* v. *Lee,* handed down a ruling which held that a member of the Old Order Amish sect must pay Social Security taxes on his employees' payroll despite his belief that such a payment is a sin.

Motivated by that decision, my proposal minimally expands the narrow exemption now in the law to the employees of exempt employers who are members of certain religious sects. This exemption applies only to cases where both are members of such faiths.

Basic to the religious belief of the Amish community, which is the most notable sect to which this exception applies, are the principles of separation from the world and the related principles of mutual aid and self-sufficiency. These principles are grounded in the most basic tenets of their religion. In other words, the essence of being Amish is intrinsically related to providing for one's own people without Government interference. Accordingly, the mutual aid extended to family and church members is practiced as a religious belief.

Few outsiders understand the intensity of this belief. For the Amish to participate in any Government program which provides for the aged or the sick is to admit that the Government has a responsibility for their welfare, and to admit this is to deny the faith. The Amish are not opposed to all taxes. They are opposed to inclusion in a program which would erode their principles of self-sufficiency for themselves and for future generations.

The total population of the Amish community is estimated at approximately 90,000. While the Amish do not keep precise records of their membership, we know that approximately 50 percent of that number are children under 16, and 99 percent of Amish women do not seek employment outside the home. It is estimated that Amish

men in the work force who are not self-employed number approximately 12,000 persons.

Obviously, the number of workers to be exempted in my bill is small and their labor generates only a small amount of wages and taxes. Exempting a group of believers of this size has minimal impact on the revenues of the Social Security trust funds and hardly endangers the solvency of the Social Security system. The cost to the Government in accommodating the religious beliefs of those unquestionably sincere sects is minuscule compared to the magnitude of the religious compromise forced upon them by requiring that they pay Social Security tax.

The expanded exemption would only benefit a narrowly defined, clearly recognizable group. In matters of administration, I am informed that the Social Security Administration carefully scrutinizes all applications for the existing self-employment exemption to determine whether a sect is a legitimate one meeting statutory requirements. Therefore, granting the exemption proposed in my bill would not lead to abuse, uncontrollable expansion, or an undermining of the soundness of the Social Security system.

Despite what some without understanding might claim, clearly the sole purpose of H.R. 2259 is to provide relief for only those individuals who have long been recognized to believe that payment of Social Security taxes is irreconcilable with their religious convictions. It has been very difficult to have the committee focus on such convictions in the past. Your willingness to hold this hearing is a tribute to your leadership, Mr. Chairman, and the support of Mr. Vander Jagt, Mr. Daub and others on the subcommittee is also greatly appreciated.

And, Mr. Chairman, I appreciate the opportunity to address the subcommittee as it grapples with the continuing and evolving changes needed in our Social Security system. And I urge the subcommittee to enact this very narrow exemption as an application of the principles of religious freedom that play such an important part in our society. Thank you, Mr. Chairman.

Chairman JACOBS. First of all for the record, the Chair states that Mr. Schulze has labored long and with dedication in the vineyards of this cause, and you are to be commended more than any other Member of Congress for your devotion to it.

As you say, the administration is concerned about precedent in this matter. It is not uncommon for various groups and individuals to appear before the Congress and explain why they should not pay money to the Federal Government for whatever reason. It is equally not uncommon for those same groups to get everything they can from the U.S. Treasury in one way or another.

I infer from your testimony that the assertion here is that this group is, if not unique, rather rare, in that it has actually waived benefits to which members have been clearly, under the laws of the United States, legally entitled.

Mr. SCHULZE. That is true, Mr. Chairman. This was enacted in 1965—and I am sure you are aware of the background. It was done in a very narrow manner with the idea that we would watch it and see how it went, and see if there was abuse, whether other groups came in and said, I need this too, or I fill that narrow definition. To

the best of my knowledge, there has been absolutely no abuse of this exemption.

So I think this step maybe called phase 2 in the logical progression of that action.

Chairman JACOBS. And pretty much the final step, I take it, as well.

Mr. SCHULZE. Yes.

Chairman JACOBS. Mr. Schulze, the subcommittee is indebted to you for your work and your time. Thank you for your contribution.

Mr. SCHULZE. Thank you, Mr. Chairman.

Chairman JACOBS. The next witness is A.S. Kinsinger, chairman of the Old Order Amish Steering Committee. Would you care to come forward, sir, and see if you can improve upon what Congressman Schulze said?

Mr. Kinsinger.

STATEMENT OF ANDREW S. KINSINGER, CHAIRMAN, OLD ORDER AMISH STEERING COMMITTEE

Mr. KINSINGER. Thank you, Mr. Chairman. Honorable Chairman Andy Jacobs, Jr., and fellow Congressmen, it is with appreciation but humbleness that I come before your committee today. I feel honored to have H.R. 2259 before your committee today, of which I have a great interest in, mainly because it covers a religious issue, and if passed it will be a great relief to my fellow men.

First, let me explain that we do not wish to harm the Social Security system in any way for the people desiring same. However, we as a small Amish group would much desire to care for our needy by alms or personal assistance as has been our custom for well before the settlement of America.

This bill will not open the floodgates, so to speak, as some may think, as nothing is changed from the original 1965 law as to who is eligible for a Social Security exemption form 4029. Form 4029 is the exemption which we sign to take us out of the Social Security program.

Most of the people taking advantage of this exemption already have their exemption form or will get them as they become church members. But as employees the exemption has no effect for many of them. And so as not to be forced into the Social Security program, they form partners, go to share crop farming, and so forth. But this can be rather burdensome and not to our liking as we prefer to be square and fair and not looking for a way to get around the law even if it is legal.

When the form 4029 Social Security form is signed requesting its approval, we are in effect also signing that we will not collect Social Security. We are opposed to public insurance. In essence, we desire no State or Federal financial aid.

Again, in my opinion, even if this bill will pass, more money would go into the Social Security fund than what it will take out for the reason following. If the employer holds an approved form 4029 Social Security exemption and he files his 1040 tax form, when he comes to the part of Social Security he writes in "exempt-form 4029." This is our regular procedure at this time. This has worked well for better than 20 years.

Under this bill, if the employee holds an approved form 4029 Social Security exemption, which many of them do already, and works for an employer that also holds a Social Security exemption, then the employee when he comes to the part of the W–2 on form 1040, he will also write in, "exempt form 4029." The bill was drawn up in a way that we felt that it should not make any unnecessary or extra work for the IRS.

However, if the employee works for an employer that does not hold an approved form 4029 Social Security exemption, as in the case of a non-Amish feed mill, or a lumber yard, or carpenter crew, or a trailer factory out in the country among the Amish, then the employer will need to withhold the Social Security, match it and pay it into the Social Security fund. But the applicant cannot legally and does not wish to draw Social Security regardless of how much the applicant paid in, although he does hold an approved form 4029. So in some localities, members with approved exemption forms will still contribute to the fund without withdrawing.

In other words, for the ones that are religiously and strictly opposed to the Social Security, they will have the privilege of working for a farmer, or you could say an Amish boy working for an Amish farmer. Both of them hold an exemption. And if he is not so strictly inclined in insurance that he would work for a non-Amish farmer, it will be withheld from him just the same as if he did not have the 4029.

Now you may say, "If we approve this bill, will this group of Old Order Amish next say, we are not able to pay our Federal or State taxes because it is used for war material and so forth, of which we want no part of?" This is not true, as we are admonished through the Bible and Jesus himself to pay our due taxes and to pray for our Government and men of authority. And what the tax money is used for is not our concern but the Government's.

Why then not pay the Social Security? If Social Security were a tax and not an old-age insurance there would be no problem. But even the original title of Social Security, old-age and survivors insurance, reflects that Social Security is an insurance, at least in our minds.

We kindly thank you, honorable men of authority, and do wish each and every one the grace and the blessings of God in your many tasks.

Chairman JACOBS. Thank you, Mr. Kinsinger. I think you have touched on, and Congressman Schulze certainly did, the concerns of the administration in terms of precedent. And the cochairman of the committee, Mr. Archer from Texas, has asked me to read a short, three-sentence statement into the record. Perhaps you would want to comment on it after I do.

Mr. Archer says,

> I do want to note that former chief actuary Robert Myers has submitted testimony for the record opposing H.R. 2259, in part because of its possible impact as a precedent. I recognize and admire the complete sincerity of today's witnesses, but encourage my colleagues to weigh Mr. Myers' observation in any future deliberations about this bill. It is a measure we must approach with caution.

That is Mr. Archer's statement. And of course, Mr. Myers' statement will be included as a part of the record.

Mr. Schulze has testified that fears of precedence were expressed, I believe in 1965, when Mr. Mills chaired the Ways and Means Committee. And in Mr. Schulze's research, those fears have been falsified by events in the interim. Would you have any further comment about that?

Mr. KINSINGER. My mind is very clear. When Mr. Mills put this on as a rider on the Medicare and passed the bill, or had it passed for us, he said, let this work for a couple years and see how it works. If this works well, why we will come along for the employees just as well.

Chairman JACOBS. And that means——

Mr. KINSINGER. Now when we talk about the employees, we are talking about the young Amish which are not able to own their own farms at this time but which in later years will. And to us it seems very unfair that you could say a father is exempt but a son is still in the Social Security program; just as religiously opposed as father is.

Chairman JACOBS. Your contribution is eloquent. We appreciate your testimony very much.

Mr. KINSINGER. Thank you.

Chairman JACOBS. And we have one further witness we will call who represents the Eastern Pennsylvania Mennonite Church, Mr. Jesse Neuenschwander. Would you care to come forward? You do not mind if I say for the record, you are a bishop. And you can remain, if you would like, Mr. Kinsinger.

STATEMENT OF JESSE NEUENSCHWANDER, BISHOP, EASTERN PENNSYLVANIA MENNONITE CHURCH

Mr. NEUENSCHWANDER. To the honorable chairman, we are glad to answer the request that we have to testify on behalf of this bill. Having been called upon to testify on behalf of bill, H.R. 2259, concerning Social Security coverage and/or exemption to the Amish and plain sects, we cheerfully answer for ourselves. This bill addresses the question, should exemption be extended to employees of these sects who are employed by employers of the same persuasion who are conscientiously opposed to insurance based upon the teachings of the sect.

No. 1, identity. We are presently known as Amish and conservative Mennonites who are opposed to involvement in the insurance systems of the world. Social Security being considered a form of insurance has, in many cases, been avoided under form 4029, wherein self-employed persons are exempted.

Since the term Amish and Mennonite is a rather broad term, we identify ourselves as being the strict or conservative sector of this group title. As such we believe in a literal application of the Bible relating to lifestyle. We remain opposed to insurance, but do not oppose paying taxes.

A statement from our Rules and Discipline, page 17, No. 4,

> We believe that tax monies belong to the government, according to Matthew 17:24–27; Matthew 22:21; Romans 13:3–6, we are required to pay our taxes. We further believe that the government is solely responsible for the use of its monies.

Our way of life remains separate from the norms of contemporary society. We educate our children to be useful citizens and do it

at our own expense, even though we pay local school taxes. Our appeal should not be confused with some people's opposition to church being taxed.

Being involved in insurances including Social Security brings a conditioning effect upon our people that undermines our trust in God and consequently our faith. We are opposed to insurances because of Bible teachings such as, "Woe to them that go down to Egypt for help," Isaiah 31:1. "It is better to trust the Lord than to put confidence in man," Psalms 118:8. And "Seek ye first the kingdom of God and his righteousness and all these things shall be added unto you," Matthew 6:33.

While for many citizens of this country insurance is a part of their life, we consider the care of our heavenly Father sufficient for us. To receive Social Security payments, welfare payments, and similar programs is a threat to the continuation of our way of life and faith.

Then we have a quote from the Rules and Discipline,

> We believe that all Christians should honor, pray for, pay tribute to, and obey in all things those who are in authority in state and nation. provided however, that should instances arise in which such obedience would violate the higher laws of God, "We ought to obey God rather than man," that church and state are separate, and while believers are to be subject to, they are not a part of the civil, administrative powers; that it is contrary to the teachings of Christ and the apostles to engage in carnal warfare.

No. 2 are the problems. We give our testimony apologetically since we as a people have historically remained outside of political activity of the state. We do, however, cheerfully obey the laws of government and seek to live a life that is above reproach and offense.

The plain sects are being challenged and our simple way of life is threatened as our people are forced into the Social Security mold. Something seriously is happening as our people become dependent upon an insurance system rather than depending on God through a Christian brotherhood.

Some of our people affected by the 1986 tax law change are the church school teachers and church publishing house workers. They had previously been treated as self-employed under form 4029 based on their conscientious opposition, but now need to make FICA payments and consequently become involved in Social Security. Forcing these individuals into Social Security who are in a very strategic place of influence as it relates to the ongoing work of the faith, strikes at the very heart of the continuation of the plain sects. In many cases, these individuals would be otherwise qualified for exemption due to self-employment.

Another problem is employees who share the group conviction and work for employers who are exempted under form 4029, and yet the same employee is not exempted. Thus, these individuals are further drawn into Social Security.

Our greatest problem is when our people become recipients of Social Security benefits, rather than allow the church to care for their own. If they can be exempted now, they will not face the temptation of receiving benefits later. Sometimes our people have been pressured into receiving payments who really at heart did not

wish to receive anything, but because they had paid in they came into this situation.

No. 3, consideration. Since we are called upon to testify on behalf of bill H.R. 2259, we feel the passage of this bill would ease some of the problem that confronts us today. If exemption could be extended, as the bill suggests, to members who are employed by members of groups conscientiously opposed to insurance and to members who do services for the church and are conscientiously opposed to insurance based on the teachings of the sect, this would be most helpful.

In our conclusion, it is our aim to follow the Bible command of caring for our own people and not have any of them become a liability to the state. As an answer to the material need of our people, we have an approach of brotherly assistance that helps our people who encounter difficulty. Following we have an excerpt of that statement, which I will not take the time to read.

Whatever consideration you may deem wise on this issue will be appreciated, and we thank God for this country and for the liberties allowed herein. And thank you, Mr. Chairman, for hearing me.

[Excerpt from pp. 23–24 of the "Rules and Discipline of the Eastern PA Mennonite Church" follows:]

1. "There needs to be continued teaching on the evils and dangers of being involved in worldly organizations and what it does to us. II Cor. 6:14-18.

2. We need to teach the importance of trusting in God rather than the inventions of men. Ps. 118:8.

3. That we restore the assistance aspect of the deacon office to that which it was originally intended. Acts 6:1-7.

4. That we supply him with sufficient funds so he can exercise his office. These funds will become available by lifting regular realistic offerings. I Cor. 16:1, 2.

5. That all contributions to the deacon fund be strictly on a voluntary basis which would bring a close degree of equality. II Cor. 8:15.

6. That when a need arises that is more than a local congregation can bear, the deacon, at the direction of the local bishop, would ask for help from the deacons of the other congregations in his district. If the need could still not be met on a district appeal, the deacon and bishop, where the need exists, could then, upon the agreement of bishops, call the deacons of the Eastern Pennsylvania Mennonite Church together and pool the resources to have the need filled. II Cor. 9:5-7; Acts 11:29,30.

7. That we avoid a central treasury and all funds be kept by the local deacon of every congregation. Tit. 1:5.

8. That local congregations and districts be encouraged to offer assistance to spiritual conservative minded congregations other than those of the Eastern Pennsylvania Mennonite Church group when appeals come for help and they are in a position to do so. Gal. 6:10.

9. That we would look favorably toward members elimating all insurances and following the Bible approved way of life which means not living to the full limits of one's income so we may have something to "save". Also that we bear one another's burdens and suffer with the member who suffers. II Cor. 12:14; Gal. 6:2; I Cor. 12:26.

10. That every congregation decide on a maximum limit that may be accumulated in the deacon fund so we may avoid having people trust in a large established fund, but rather that they trust God and His people. Ps. 37:25."

Chairman JACOBS. Thank you, Mr. Neuenschwander. I believe that that concludes the hearing. I think we have sufficient information from the three witnesses who have testified. The other members of the committee who are not present will have access to the record and no doubt will form opinions.

I think that I should note for the record that there are individual citizens of the United States who are well-heeled, wealthy people, some of whom would not like to participate in the Social Security system, and who argue also that they would be very happy not to receive the benefits—who would not need them in any case. The distinction between them and the groups before us, it seems to me, is that there is not a religious element in their objection.

There is a precedent, is there not, in this country of recognition of conscientious objection by the U.S. Government in recruitment for military service. So we are not without precedence for this approach, and the subcommittee will give it careful consideration. And we might even speak to Mr. Mills and ask him what he thinks by now.

Thank you very much for your contribution to the record.

And this concludes the hearing.

[Whereupon, at 12:26 p.m., the subcommittee hearing was concluded.]

[Submissions for the record follow:]

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

The Honorable Andrew Jacobs, Jr.
Chairman, Subcommittee on
Social Security
Committee on Ways and Means
House of Representatives
Washington, DC 20515

OCT 5 1987

Dear Mr. Chairman:

There is pending before your subcommittee a bill, H.R. 2259, on which we take this opportunity to express our views. The bill would provide an exemption from coverage under the social security program on a current basis (pursuant to applications filed in advance) for employers and their employees in cases where both are members of faiths opposed to participation in such program.

For the reasons expressed below, we would not oppose the enactment of H.R. 2259.

As the Nation's basic social insurance program, social security helps to prevent want and dependency for workers and their families who suffer a loss of earnings when the worker retires in old age, dies, or becomes disabled. In order to accomplish this goal, it is essential that the largest possible number of employees participate in social security and share in the cost of the program. The principle of mandatory participation is essential to maintain the financial soundness of and continued public confidence in the social security system. We must therefore exercise the greatest caution when considering any proposal that would allow classes of covered individuals to file for exemption from coverage.

We believe that this case presents what may be a unique set of circumstances. Since 1965, the law has permitted self-employed members of certain sects, opposed on religious grounds to participation in the social security program, to file for exemption from the social security system. H.R. 2259 would extend this option only to cases where both the employer and employee share this same religious objection. This extension of the long-standing exemption for those whose religious views preclude participation would remove the anomalous distinction which exists under current law between these two groups. Because of the logical consistency between the current law exemption and the proposed extension, and because the extension is narrowly drawn, we would not oppose the amendment which this bill would make.

We do wish to caution, however, that this should not be considered a precedent. Only because the characteristics of the

class present the basis for a minor extension can we accept it. Our general view remains unchanged -- the principle of mandatory coverage is essential to insure the continuing strength of the social security system.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Otis R. Bowen M.D.
Secretary

STATEMENT BY ROBERT J. MYERS PRESENTED TO THE SUBCOMMITTEE ON SOCIAL SECURITY OF THE COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, OCTOBER 6, 1987, WITH REGARD TO H.R. 2259, A BILL TO EXEMPT FROM SOCIAL SECURITY COVERAGE CERTAIN PERSONS WHO ARE MEMBERS OF RELIGIOUS FAITHS OPPOSED TO PARTICIPATION IN SOCIAL SECURITY.

Mr. Chairman and Members of the Subcommittee: My name is Robert J. Myers. I served in various actuarial capacities with the Social Security Administration and its predecessor agencies during 1934-70, being Chief Actuary for the last 23 of those years. In 1981-82, I was Deputy Commissioner of Social Security, and in 1982-83, I was Executive Director of the National Commission on Social Security Reform.

I appreciate this opportunity to present my views on H.R. 2259. This bill would permit employees who are members of certain religious sects to be exempt from participation in the Social Security program. An employee's wages would be exempt from both employer and employee taxes if both are members of a religious sect which (a) has been in existence at all times after 1950, (b) provides for the care of dependent members, and (c) is opposed to participation in any private or public insurance program.

Such exclusion would apply only if both the employer and the employee were, because of adherence to the established tenets or teachings of the sect, conscienciously opposed to the acceptance of any such insurance payments in the event of death, disability, old-age, or retirement, or toward the cost of medical care. Both the employer and the employee would waive all Social Security and Medicare benefits payable to them and their family members and survivors.

The Supreme Court, in the case of U. S. vs. Lee (102 S. Ct. 1051 (1982)), ruled unanimously that the imposition of Social Security taxes does not, in case of sects which object on religious grounds to such taxes, violate the First Amendment as to interfering with the free exercise of religion.

Over the years, there has been general agreement that the coverage of the Social Security program should be extended to as many types of gainful employment as possible -- and on a compulsory basis, as much as possible. Allowing individual employees and their employers an individual choice as to whether to participate would undermine the virtually universal nature of the program. This could be a precedent for others seeking exemption from Social Security. In 1965, when self-employed members of these sects were permitted exemption, the report of the Committee on Ways and Means stated: "We strongly recommend against any broadening of the proposed amendment since any such broadening could well lead to widespread individual voluntary coverage under Social Security, which would undermine the soundness of the Social Security program."

It is a well-known actuarial fact that a social insurance system which involves many elements of social adequacy -- as does the Social Security program must have compulsory coverage. Otherwise, anti-selection would occur, the low-cost individuals would opt out, and financing difficulties would occur. The same would be true for private individual insurance if the insurer were required to take all applicants without regard to health status or to grant the same premium rate to all, regardless of age.

I believe that the original exemption of the self-employed members of these religious sects was wrong. As I see it, if such persons had religious objections to the receipt of Social Security benefits, well and good; they need not file for them and receive them. But this is no reason why they should not pay the Social Security taxes. After all, there is the parallel situation with regard to school taxes -- persons who, for religious reasons or principles, send their children to private schools must still pay school taxes.

This same point holds true for the proposal to exempt from Social Security taxes employers and employees who both are members of such sects. In addition, there is the point that the employer tax is paid because employers have people in their employment. This tax is a legitimate, necessary cost of doing business and is a deductible business expense for income-tax purposes. The fact that the employer is in a religious sect which is opposed to the acceptance of Social Security benefits should not justify exemption from the taxes used to meet the cost of protecting all workers covered under the program.

Further, employers who qualify for such exemption would have a competitive advantage over other employers. Such exemption would also create an incentive for these employers to hire individuals who were also members of such sects; this would give these individuals an unfair advantage over others in seeking employment -- unfair discrimination on the basis of religion.

For these several reasons, I must oppose the enactment of this bill.

Further, I wonder about the constitutionality of the bill -- and present law as well in this respect -- because it distinguishes between religious sects founded before 1951 and those founded later. It would seem that the Constitution does not permit the Federal Government to grant a benefit to older religions and, at the same time, to deny this to newer ones. If this differentiation were eliminated, it would open up possible abuse by persons organizing "religions" based solely on the principle of opposing Social Security coverage.

Still further, I have grave concerns about possible massive use of both the exemption in present law and the significant extension thereof that would occur under the bill (although "tax-avoidance" advisers have not yet "pushed" this procedure). Thus, the basic tenets that qualify for exemption can be attributed to other religious denominations by some of their adherents. The requirement in the law that the sect must "make provision for their dependent members" is most difficult to determine and enforce administratively. For example, many Moslem religious leaders believe that traditional forms of insurance violate the principles of their religion. Considering the number of different sects within the Moslem religion, it would be readily possible for a person with strong philosophical views against Social Security, and not especially strong religious views in general, to join some such sect and thus be able to evade Social Security coverage. If this were done widely, the tax income to the program would be greatly reduced, and its financial position endangered.

In any event, whether or not the bill is enacted, I urge that the Internal Revenue Service and the Social Security Administration jointly should be required to submit an annual report to the Congress giving information as to the persons filing for exemption from Social Security coverage on the basis discussed previously, including such information as their age and the sect to which they belong.

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